

09/466,925  
DOCKET NO. 99N034-US

9

### REMARKS

Claims 1-20 are all the claims presently pending in the application. Claims 1-13 are amended to further clarify the present invention. Claims 1-2, 5-6, and 9-13 are independent.

These amendments are made only to more particularly point out the invention for the Examiner and not for narrowing the scope of the claims or for any reason related to a statutory requirement for patentability.

Applicant also notes that, notwithstanding any claim amendments herein or later during prosecution, Applicant's intent is to encompass equivalents of all claim elements.

Entry of this §1.116 Amendment is proper. Since the Amendments above narrow the issues for appeal and since such features and their distinctions over the prior art of record were discussed earlier, such amendments do not raise a new issue requiring a further search and/or consideration by the Examiner. As such, entry of this Amendment is believed proper and Applicant earnestly solicits entry. No new matter has been added.

Claims 1-20 stand rejected under 35 U.S.C. § 102(b) as being anticipated by the Kleijne et al. reference (U.S. Patent No. 4,691,350).

This rejection is respectfully traversed in the following discussion.

### I. THE CLAIMED INVENTION

An exemplary embodiment of the claimed invention, as defined, for example, by independent claim 13, is directed to a data storage device that includes a data storage in a housing, a plurality of electrodes disposed on the housing, and a processor that determines a

09/466,925  
DOCKET NO. 99N034-US

10

deflection of the housing based upon a capacitance between the plurality of electrodes.

Conventional secure data storage devices have relied upon a key cryptography system for encoding confidential data. These devices have stored the keys within a storage that includes micro-switches within its housing. However, these micro-switches are not capable of reliably detecting a dismantling of the housing if the micro-switches are avoided.

In stark contrast, the present invention (e.g., see claim 1) provides a data storage device that detects a deflection of the housing by detecting the capacitance between two electrodes that are disposed on the housing. For example, one exemplary embodiment of the present invention detects the capacitance between a plurality of electrodes disposed on the housing of the data storage device and determines whether the housing is deflected based upon a change of capacitance between the plurality of electrodes. In this manner, the present invention is capable of reliably detecting any deflection of the housing as might occur when one attempts to dismantle or otherwise gain access to the inside of the housing (page 10, line 15 - page 11, line 7).

## II. THE PRIOR ART REJECTION

The Examiner alleges that the Kleijne et al. reference teaches the claimed invention. Applicant submits, however, that there are elements of the claimed invention which are neither taught nor suggested by the Kleijne et al. reference.

The Kleijne et al. reference does not teach or suggest the features of the present invention including a data storage device that detects a deflection of the housing by detecting the capacitance between two electrodes that are disposed on the housing.

09/466,925  
DOCKET NO. 99N034-US

11

The Kleijne et al. reference discloses a data storage device that incorporates ceramic plates that each have a pair of serially connective conductive path segments that are provided on separate, superimposed layers (Abstract; and col. 2, lines 12-34). The Kleijne et al. reference further includes an electronic circuit 84 (Fig. 14) that includes tamper detection circuitry 102 (Fig. 15). The tamper detection circuitry 102 includes sense circuits 124 and 126. The sense circuit 124 determines whether the voltage plane has shorted to the wire mesh (col. 11, lines 22-25). Similarly, the sense circuit 126 determines whether the wire mesh has been broken or shorted (col. 11, lines 41-44).

The Examiner cites columns 11 and 12 in an attempt to support the Examiner's allegation that the Kleijne et al. reference discloses measuring a capacitance across electrodes. While the Kleijne et al. reference discloses a capacitor 170 in the sense circuit 126 as illustrated in Figure 15 and discussed at column 12, lines 4-17 and lines 54 - 57, the electrodes that connect to the capacitor 170 are not disposed upon the housing. Rather, these electrodes are disposed on the electronic circuitry 84 (See Figs. 3 and 14) which are encased within the housing.

In stark contrast, as is illustrated for example by Figure 2 of the present specification, the electrodes 6a - 7c are disposed on the housing. The capacitance between these electrodes is monitored to determine whether the housing is deflected such that the relative positions between the electrodes changes which will cause a change in the capacitance between the electrodes. In this manner, the present invention is capable of reliably detecting any deflection of the housing as might occur when one attempts to dismantle or otherwise gain access to the inside of the housing (page 10, line 15 - page 11, line 7).

09/466,925  
DOCKET NO. 99N034-US

12

Clearly, the Kleijne et al. reference does not teach or suggest the features of the present invention including a data storage device that detects a deflection of the housing by detecting the capacitance between two electrodes that are disposed on the housing.

Therefore, the Kleijne et al. reference does not teach or suggest each and every element of the claimed invention. Thus, the Examiner is respectfully requested to withdraw this rejection of claims 1-20.

### **III. FORMAL MATTERS AND CONCLUSION**

In view of the foregoing amendments and remarks, Applicant respectfully submits that claims 1-20, all the claims presently pending in the Application, are patentably distinct over the prior art of record and are in condition for allowance. The Examiner is respectfully requested to pass the above application to issue at the earliest possible time.

Should the Examiner find the Application to be other than in condition for allowance, the Examiner is requested to contact the undersigned at the local telephone number listed below to discuss any other changes deemed necessary in a telephonic or personal interview.

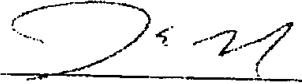
09/466,925  
DOCKET NO. 99N034-US

13

The Commissioner is hereby authorized to charge any deficiency in fees or to credit any overpayment in fees to Attorney's Deposit Account No. 50-0481.

Respectfully Submitted,

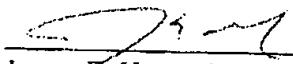
Date: 7/21/04

  
James E. Howard  
Registration No. 39,715

**McGinn & Gibb, PLLC**  
8321 Old Courthouse Rd., Suite 200  
Vienna, Virginia 22182  
(703) 761-4100  
**Customer No. 21254**

**CERTIFICATION OF FACSIMILE TRANSMISSION**

I hereby certify that I am filing this Amendment by facsimile with the United States Patent and Trademark Office to Examiner Leynna A. Ha, Group Art Unit 2135 at fax number (703) 872-9306 this 21<sup>st</sup> day of July, 2004.

  
James E. Howard  
Reg. No. 39,715